

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be reimbursement of \$118.09 for dates of service 05/01/01, and 07/23/01.
- b. The request was received on 03/25/02.

II. EXHIBITS

1. Requestor, Exhibit I:
 - a. TWCC 60
 - b. HCFA(s)
 - c. TWCC 62 forms
 - d. Reimbursement data
 - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Per Rule 133.307 (g) (3), the Division forwarded a copy of the requestor's 14 day response to the insurance carrier on 05/21/02. Per Rule 133.307 (g) (4)(5), the carrier representative signed for the copy on 05/22/01. The response from the insurance carrier was received in the Division on 06/06/02. Based on 133.307 (i) the insurance carrier's response is untimely so the Commission shall issue a decision based on the request.

3. Notice of Medical Dispute is reflected as Exhibit III of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor: Letter dated 05/08/02 states:

"The expected out come of this issue is that we feel the claims should be paid in full. In accordance with DME Ground Rules Section IX c states invoices should be billed at the provider's usual and customary rate."

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only dates of service eligible for review are 05/01/01, and 07/23/01.
2. The denial listed on the EOB is "M-Reduced to Fair and Reasonable."

3. The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT or Revenue CODE	BILLED	PAID	EOB Denial Code(s)	MARS	REFERENCE	RATIONALE:
05/01/01 07/23/01	L0500	\$120.00 \$120.00	\$87.91 \$34.00	M	DOP	TWCC Sec. 413.011(d) MFG DME; (X)(C) MFG GI; (III)(VI) TWCC Rule 133.304(i)(1)	“CPT codes for which no reimbursement is listed (DOP) shall be reimbursed at the fair and reasonable rate.” The provider’s only evidence of fair and reasonable are EOBs from other insurance carriers. MFG GI(III) places the burden on the provider to prove that the amount of reimbursement requested is fair and reasonable. The provider has submitted EOBs to document fair and reasonable reimbursement. In light of recent SOAH decisions, where providers had submitted EOBs for fair and reasonable, SOAH has placed minimal value on EOBs for documenting fair and reasonable. Therefore, additional reimbursement is not recommended for the date of service 05/01/01 . On the date of service 07/23/01 the carrier reimbursed the provider \$34.00 for the DME, which does not show consistency in it’s methodology according to Rule 133.304(i)(1). Therefore, additional reimbursement in the amount of \$53.91 (\$87.91-\$34.00=\$53.91) is recommended for the date of service 07/23/01.
Totals		\$240.00	\$121.91				The Requestor is entitled to additional reimbursement in the amount of \$53.91 .

VI. ORDER

Pursuant to Sections 402.042, 413.016, 413.031, and 413.019 the Medical Review Division hereby ORDERS the Respondent to remit \$53.91 plus all accrued interest due at the time of payment to the Requestor within 20 days receipt of this order.

This Order is hereby issued this 17th day of July 2002.

Michael Bucklin, LVN
Medical Dispute Resolution Officer
Medical Review Division

MB/mb

This document is signed under the authority delegated to me by Richard Reynolds, Executive Director, pursuant to the Texas Workers’ Compensation Act, Texas Labor Code Sections 402.041 - 402.042 and re-delegated by Virginia May, Deputy Executive Director.